

Private foundation; second qualifying distribution of same asset. If a private foundation that has made a qualifying distribution equal to the purchase price of an asset donates the asset to a publicly supported charity, it will be allowed a second qualifying distribution to the extent that the fair market value of the asset on the date of contribution exceeds the amount of the first qualifying distribution under section 4942(g)(1) of the Code.

#### ISSUE

Will a private foundation that, under the circumstances described below, has already made a qualifying distribution, as defined in section 4942(g)(1) of the Internal Revenue Code, equal to the purchase price of an asset be allowed a second qualifying distribution for its subsequent donation of the asset to a publicly supported charitable organization?

#### FACTS

The foundation is exempt from federal income tax under section 501(c)(3) of the Code and is a private foundation under section 509(a). During its 1976 taxable year, it purchased a building for use directly in carrying out its exempt purposes and claimed a qualifying distribution under section 4942(g)(1) for the purchase price of the building.

During its 1978 taxable year, the foundation donated the building to a publicly supported organization described in sections 501(c)(3) and 170(b)(1)(A)(vi) of the Code for its use in accomplishing purposes described in section 170(c)(2)(B). The publicly supported organization is not controlled by the foundation within the meaning of section 4942(g). The fair market value of the building on the date of the donation exceeded the purchase price of the building.

#### LAW AND ANALYSIS

Section 4942(a) of the Code imposes tax on the undistributed income that a private foundation fails to timely distribute. Section 4942(c) provides that 'undistributed income' is the distributable amount required to be distributed less qualifying distributions as defined under section 4942(g).

Section 4942(g)(1) of the Code provides that the term 'qualifying distribution' means any amount paid to accomplish one or more purposes described in section 170(c)(2)(B), or any amount paid to acquire an asset used or held for use directly in carrying out one or more purposes described in section 170(c)(2)(B).

The donation of the building by the foundation to the donee organization constitutes an amount paid to accomplish purposes

described in section 170(c)(2)(B) of the Code. However, since the foundation had previously taken a qualifying distribution for the purchase price of the building, it will not be allowed a second qualifying distribution for an amount that represents the same expenditure.

#### HOLDING

A private foundation that has already made a qualifying distribution under section 4942(g)(1) equal to the purchase price of an asset will be allowed a second qualifying distribution for the same asset, under the circumstances described above, if it donates the asset to a publicly supported organization, but only to the extent that the fair market value of the asset on the date of contribution exceeds the amount of the first qualifying distribution.